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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,066	01/30/2001	Doug Hutcheson	50310-00630	8177

7590 05/17/2005
Louis M Heidelberg
Reed Smith LLP
2500 One Liberty Place
Philadelphia, PA 19103-7301

EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/772,066

Applicant(s)

HUTCHESON ET AL.

Examiner

Sharad Rampuria

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-73 is/are pending in the application.
4a) Of the above claim(s) 1-35 is/are withdrawn from consideration.
5) ☒ Claim(s) 54-73 is/are allowed.
6) ☒ Claim(s) 36,39-53 is/are rejected.
7) ☐ Claim(s) 37 and 38 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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Response to Amendment

I. Applicant's arguments with respect to claims 36-53 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-35 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36, 39-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow et al. (US 6470179) and Tell et al. (US 5774802) further in view of Marsh et al. (US 6574465).

36. Regarding claims 36, 39, 42-46, 52-53 Chow disclosed A business method for providing wireless communications services to one or more subscribers in return for payment of a charge, (abstract) comprising:

determining a flat rate charge for the services; (flat...rate; col.6; 63-col.7; 23)

determining a period of time within which the flat rate for the wireless device charge shall apply;

(unlimited air time; col.5; 60-col.6; 4) determining a charge to the account based upon the flat rate for the period of time; (unlimited air time; col.5; 60-col.6; 4); and

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Chow fails to disclose providing unlimited access to the wireless communications services for the flat rate during the period of time. However, Tell teaches in an analogous art, that providing unlimited access to the wireless communications services for the flat rate during the period of time; and providing service to the user primarily in limited geographic areas in which the user substantially lives, works, and plays. (virtual zones...home, office, cellular; col.4; 56-67, col.5; 36-45) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include providing unlimited access to the wireless communications services for the flat rate during the period of time in order to provide a method of billing in a wireless communication system.

The above combination fails to disclose the user uses the services at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes per month. However, Marsh teaches in an analogous art, that wherein the user uses the services at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes per month. (Table 6-8; col.18; 23-61) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include the user uses the services at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes per month in order to provide a method of optimal wireless communication service plans.

40. Regarding claims 40-41, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50/\$30 per month. However, Marsh teaches in an analogous art, that charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50/\$30 per

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month. (Table 6-8; col.18; 23–61) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50/\$30 per month in order to provide a method of optimal wireless communication service plans.

47. Regarding claims 47-51 The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month. However, Marsh teaches in an analogous art, that maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month. (Table 6-8; col.18; 23–61) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month in order to provide a method of optimal wireless communication service plans.

Claim Objections

II. Claims 37 and 38 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

III. Claims 54-73 are allowed as disclosed in previous office-action.

Conclusion

IV. Applicant's request for reconsideration of the allowability of Claims 36-53 in the last Office action is not persuasive and, therefore, the allowability of Claims 36-53 in that action is withdrawn.

V. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on Mon-Fri. (8:10-4:40).

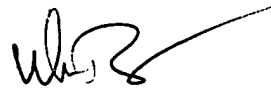
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2683

13 May 2005



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